



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
5 Post Office Square, Suite 100
Boston Massachusetts 02109

CERTIFIED MAIL-FIRST CLASS MAIL
RETURN RECEIPT REQUESTED

September 22, 2011

Steven Ganley, Facility Manager
General Chemical Corporation
133-138 Leland Street
Framingham, MA 01702

Re: Initial Notice of Unacceptability
CERCLA Off-Site Rule

Dear Mr. Ganley:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA) has determined, based on its independent review of the record, that conditions exist that may render the General Chemical Corporation facility in Framingham, MA, EPA Identification number MAD0193071079 (hereinafter the "facility" or "GCC"), unacceptable for the receipt of off-site wastes generated as a result of any response activity under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9601 *et seq.*, including cleanups at Federal facilities under section 120 of CERCLA, 42 U.S.C. § 9602, and cleanups under section 311 of the Clean Water Act, 33 U.S.C. § 1321 (except for cleanup of petroleum exempt under CERCLA).

This determination is made under EPA's procedures for planning and implementing off-site response actions (40 CFR § 300.440; 58 FR 49200, 49215-49218, September 22, 1993). (hereinafter the "Off-Site Rule") (Copy enclosed) The purpose of the Off-Site Rule is to ensure that wastes from CERCLA sites are sent to environmentally sound facilities and do not contribute to future environmental problems. The Off-Site Rule was codified in the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") at 40 C.F.R. §300.400 and supersedes the previously published Off-Site Policy and guidance. See also Section 121(d)(3) of CERCLA, 42 U.S.C. §9621(d)(3).

EPA's independent initiative in issuing this Initial Notice of Unacceptability is based on public information obtained regarding enforcement actions by the Massachusetts Department of Environmental Protection ("MassDEP") pertaining to GCC's failure to obtain financial assurance for corrective action required at the facility, in violation of 310 Code of Massachusetts

Regulations ("CMR") 30.602(9), 40 C.F.R. § 264.101 and Massachusetts Treatment, Storage, Disposal Facility ("TSDF") license #27B/2006 ("the License").

Relevant Conditions at the Facility

1. GCC operates a TSDF and is subject to corrective action due to historical releases of volatile organic compounds ("VOCs") to soils and groundwater at the facility.
2. On May 27, 2011, MassDEP notified GCC that it was establishing a compliance deadline for GCC to establish financial assurance for the corrective action in the amount of \$1,274,000. The compliance deadline was July 25, 2011.
3. GCC failed to secure financial assurance by the July 25, 2011 compliance deadline and requested an extension of time from MassDEP.
4. MassDEP granted GCC's request and extended the compliance deadline to August 25, 2011.
5. GCC failed to secure financial assurance by the August 25, 2011 deadline.
6. On August 31, 2011, MassDEP issued a Unilateral Administrative Order ("UAO") which required GCC to obtain financial assurance in the amount of \$1,274,000 by September 9, 2011 or face temporary suspension of its license to operate a TSDF.
7. GCC failed to secure financial assurance by September 9, 2011.
8. On September 19, 2011, GCC and MassDEP entered in an Administrative Consent Order and Notice of Noncompliance ("AOC") which requires, among other things, that:
 - a. By no later than September 23, 2011 GCC, must establish financial responsibility for the facility in the amount of \$637,000 in a mechanism approved by MassDEP to secure performance of the remedial implementation phase of RCRA Corrective Action;
 - b. By September 28, 2011 GCC, at its option, must either: (1) increase the balance in its approved financial responsibility mechanism to a total of \$1,274,000; or (2) submit to MassDEP for review and approval an amended cost estimate for completion of the remedy implementation phase of corrective action;
 - c. If GCC opts to submit an amended cost estimate MassDEP will review GCC's submission and issue a decision as to the total amount of approved financial assurance required. Then, no later than 30 days from MassDEP's decision on the total amount of financial responsibility, GCC must increase the amount of its financial responsibility mechanism by the difference between the total amount approved by MassDEP and the \$637,000 balance already established;
 - d. The AOC acts as a conditional stay of the deadlines in the UAO as of September 7, 2011, pending GCC's compliance with all requirements of the AOC.
9. GCC is now required to comply with the AOC, and provide the approved amount of financial assurance under the timelines established, as well as comply with all other requirements of the AOC. However, at this time GCC remains in noncompliance with the underlying financial assurance requirement.

The conditions identified above are "relevant violations" under the Off-Site Rule criteria of 40 C.F.R. § 300.440(b)(ii). GCC was notified of these violations by MassDEP on May 27, 2011, and failed to obtain financial assurance to cover the cost of the corrective action required by the facility, missing compliance deadlines of July 25, 2011, August 25, 2011 and September 9, 2011.

Under the Off-Site Rule, EPA finds that GCC's repeated failure to obtain financial assurance is a relevant, facility-wide violation that may render the facility unacceptable to receive CERCLA waste.

This initial determination of unacceptability becomes effective sixty (60) calendar days from the date of this notice unless such conditions are eliminated. Your facility remains acceptable to receive CERCLA waste during the 60-day period. If, however, this unacceptability determination becomes effective, the facility will remain unacceptable until such time as EPA notifies the owner or operator otherwise. The implementation of this notice does not preclude EPA or delegated State programs from taking other appropriate enforcement actions under the Resource Conservation and Recovery Act (RCRA) 42 U.S.C. § 6921 *et seq.*; the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2601 *et seq.*; CERCLA; or other laws.

Your response to this letter

The Off-Site Rule provides the facility owner or operator an opportunity to make a written request for an informal conference with the U.S. EPA regional staff and legal counsel to discuss the basis for the facility's initial unacceptability determination. The informal conference request must be made within ten (10) calendar days from the date of this notice. EPA shall provide the opportunity for the conference no later than thirty (30) calendar days after the date of this notice, if possible. In addition to or instead of requesting such a conference, you may submit written comments within thirty (30) calendar days from the date of this letter.

If an informal conference is held or written comments are submitted, EPA will determine whether the information you provide is sufficient to show that the facility is operating in compliance with respect to the relevant violations listed above, and whether the information you provide is sufficient to show that the relevant violations have been eliminated or addressed, as described in 40 C.F.R. § 300.440. Unless EPA determines that the information provided is sufficient, the facility will become unacceptable sixty (60) calendar days after the date of this notice. On the date this determination becomes effective, the responsible entities shall cease the transport of CERCLA waste to your facility in accordance with the Off-Site Rule.

If your facility is determined to be unacceptable after the informal conference and/or the submission of written comments, you may request a reconsideration of the unacceptability determination by the EPA Regional Administrator. Such a request must be made in writing within ten (10) calendar days after hearing from the EPA Regional Office, following the informal conference or submittal of written comments. Reconsideration may be by review of the record, by conference, or by other means deemed appropriate by the Regional Administrator. Such a review does not automatically stay the determination beyond the 60-day period. The owner/operator will receive notice in writing of the decision by the Regional Administrator.

Any administrative or judicial challenge to a corrective action (or challenge to a requirement calling for additional corrective action) shall not act to stay a determination of unacceptability under the Off-Site Rule.

If you neither request an informal conference nor submit written comments, the facility will become unacceptable for the receipt of CERCLA wastes after sixty days of date of this notice until such time as EPA rescinds this letter and notifies you that the facility is acceptable.

This letter is being sent to you by both certified and first class mail, return receipt requested, in order to ensure that you receive it promptly. If you wish to request an informal conference, or to submit written comments, or if you have any questions regarding this letter, you may write or e-mail:

Before October 3, 2011:

Mary Jane O'Donnell, Acting Manager
RCRA, EPCRA & Federal Programs Unit (OES05-1)
U.S. EPA, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912
odonnell.maryjane@epa.gov

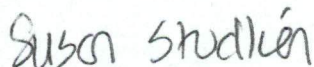
On or after October 3, 2011

Ken Rota, Regional Off-Site Coordinator
U.S. EPA, Region 1
Enforcement Office (OES04-4)
5 Post Office Square, Suite 100
Boston, MA 02109-3912
rota.ken@epa.gov

State representatives may attend the informal conference, submit written comments prior to the informal conference, and/or request additional meetings with the Regional office relating to the unacceptability issue. If no state representative is present, EPA shall notify the state of the outcome of the conference.

If you have any questions regarding this letter you may write to me or contact Region 1 Off-Site contacts Mary Jane O'Donnell, Acting Manager, RCRA, EPCRA & Federal Programs Unit at (617) 918-1371 (prior to October 3, 2011) and Ken Rota, Regional Off-Site Coordinator, at (617) 918-1751 (on or after October 3, 2011). Legal questions should be addressed to Senior Enforcement Counsel, David Peterson at (617) 918-1891.

Sincerely



Susan Studlien
Director, Office of Environmental Stewardship

Enclosure

Cc: James T. Owens III, Director, Office of Site Remediation and Restoration, EPA
Mary Jane O'Donnell, Acting Manager, RCRA, EPCRA & Federal Programs Unit, EPA
Ken Rota, Regional Off-Site Coordinator. EPA
David Peterson, Senior Enforcement Counsel, EPA
Steven DeGabriele, MA DEP
Bill Sirull, MA DEP
Brian Davis, Esq, Counsel for GCC,